

EXHIBIT A
TO M. EDELMAN'S DECLARATION ISO PLAINTIFFS'
MOTION TO DISMISS DEFENDANT'S THIRD
COUNTERCLAIM

From: Edelman, Michael N.
Sent: Thursday, September 20, 2007 5:40 PM
To: 'Rozendaal, J. C.'
Cc: 'mhansen@khhte.com'; 'dgagliardi@be-law.com'; Lemieux, Ronald (Ron) S.; Williams, Shanee
Subject: Ricoh's Answer

Dear J.C.,

This concerns the Answer and Counterclaims recently filed by Ricoh in response to Asustek's complaint. In Ricoh's pleading, Ricoh asserts a claim for infringement of Patent No. 6,631,109. As you know, however, Ricoh also asserted the '109 Patent against the Quanta defendants, and the Western District of Wisconsin issued an order determining that the '109 Patent is invalid. Judgment was entered against Ricoh on August 24, 2007.

Under both Federal Circuit and Ninth Circuit law, the order and judgment from the Wisconsin court estops Ricoh from asserting a claim for infringement of the '109 Patent against Asustek (or any other alleged infringer). We are unaware of any good faith argument that Ricoh could assert to avoid this result. I understand that Ricoh previously took the position that estoppel would not apply because the judgment of invalidity was being appealed to the Federal Circuit. However, for collateral estoppel purposes, a pending appeal is irrelevant. The Federal Circuit has made clear that a final judgment retains all of its res judicata consequences pending appeal. *Pharmacia & Upjohn Co. v. Mylan Pharmaceuticals, Inc.*, 170 F.3d 1373, 1379-82 (Fed. Cir. 1999). The Ninth Circuit's law is the same. *Tripate v. Henman*, 857 F.2d 1366, 1367-68 (9th Cir. 1988).

In light of the above, we believe it is clear that Ricoh is estopped from asserting a claim for infringement of the '109 Patent. We would therefore ask you to confirm immediately that this claim will be dismissed (or, if not, the legal authority in support of your position). If Ricoh does not agree to dismiss the claim, Asustek intends to bring a motion to dismiss for the October 29, 2007 hearing date.

If you have any further questions on this matter, please feel free to contact me.

Mike